

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Apr 25, 2016

SEAN F. McAVOY, CLERK

WENDY FLEMING, on behalf of
herself and all others similarly situated,

Plaintiff,

v.

GREYSTAR MANAGEMENT
SERVICES, L.P., a Delaware
corporation, WILLIAM SIMMONS,
and EMMETT HIGGINS,

Defendants.

No. 2:15-cv-00174-SMJ

PROTECTIVE ORDER

Before the Court is the Parties' Motion for a Stipulated Protective Order, ECF No. 13. Having reviewed the pleadings and the file in this matter, the Court is fully informed and GRANTS the motion.

Pursuant to FRCP 26(c), and according to the Stipulation of the parties, it is ORDERED as follows:

1. Any documents produced by a party in this action which are, in good faith, determined by the producing party to contain confidential or proprietary information, including without limitation financial information, tenant information (potentially including, but not limited to, social security numbers, ages, employer information, addresses, income levels, etc.), trade secrets, personnel and payroll information, business

1 planning or strategy information, or other commercially sensitive or
2 personally sensitive information of a non-public nature, may be
3 designated as "CONFIDENTIAL," and so marked, by stamping each
4 page of the document CONFIDENTIAL. If the document is more than
5 twenty five (25) pages in length, stamping the front page
6 CONFIDENTIAL shall be sufficient to cover the entire document under
7 this Protective Order. In the event that a party inadvertently fails to
8 stamp or otherwise designate a document as CONFIDENTIAL at the
9 time of its production, that party shall have twenty (20) business days
10 after discovery of such error to so stamp or otherwise designate the
11 document. The parties shall act in good faith and on a reasonable basis
12 when designating non-public documents in the following categories:

13 CONFIDENTIAL:

- 14 (a) Personnel files of employees;
- 15 (b) Tenant information (i.e., information contained in tenant files such
16 as, but not limited to, social security numbers, ages, employer
17 information, addresses, income levels, etc.);
- 18 (c) Payroll information;
- 19 (d) Compensation information;
- 20 (e) Compensation surveys;

1 (f) Compensation guidelines and pay-grade levels;

2 (g) Social Security numbers;

3 (h) Information obtained from and regarding Defendant's customers,
4 including but not limited to financial and other information disclosed to
5 Defendant for purposes of obtaining its products and services;

6 (i) Financial information of the parties not subject to public disclosure;

7 (j) Any other information not in the public domain and that is reasonably
8 and in good faith believed by the producing party to contain trade secret,
9 proprietary, or highly-sensitive business information;

10 (k) Corporate structure information;

11 (l) Medical records and healthcare information.

12 2. Documents falling within the scope of Paragraph 1 that the producing
13 party in good faith reasonably believes contain particularly sensitive
14 confidential material warranting further restrictive disclosure may be
15 designated "ATTORNEYS' EYES ONLY." Such documents may include
16 but are not limited to non-public personal financial information, financial
17 information of the parties not subject to public disclosure, and non-public
18 commercially sensitive competitive information. Publicly available
19 documents may not be designated ATTORNEYS' EYES ONLY.
20 Procedures identified in Paragraph 1 regarding designation of

1 CONFIDENTIAL documents applies with equal force to documents
2 designated ATTORNEYS' EYES ONLY.

3 3. When used in this Order, the word "documents" means all written,
4 recorded or graphic matter whatsoever, however created and whatever the
5 medium on which it was produced or reproduced, including, but not limited
6 to, documents produced by any party, whether pursuant to FRCP 33 or 34,
7 subpoena, public records request under Washington State law, or by
8 agreement, and may also include deposition transcripts and exhibits, and
9 any portions of any court papers which quote from or summarize any of the
10 foregoing.

11 4. The parties contemplate that certain information falling into the
12 categories set forth above may be produced electronically, and that the
13 electronic media (e.g., CD-ROM) will be stamped with a CONFIDENTIAL
14 or ATTORNEYS' EYES ONLY designation, while the electronic version
15 of documents themselves may not. For ease of production, any electronic
16 records which are so produced shall be treated as bearing the designation
17 stamped on the source electronic media, and documents printed from such
18 electronic records shall be automatically accorded corresponding protective
19 status pursuant to this Order.
20

1 5. All documents designated CONFIDENTIAL or ATTORNEYS' EYES
2 ONLY, and all information contained therein, shall be used by the
3 party(ies) to whom the documents are disclosed solely for the prosecution
4 and/or defense of this action, and shall not be further disseminated, except
5 as specifically set forth below.

6 6. Except with prior written consent of the party asserting confidential
7 treatment, documents designated CONFIDENTIAL and the information
8 contained therein may be disclosed only to the following persons:

9 (a) Counsel for the party(ies) to whom the confidential disclosure has or is
10 to be made, and secretaries, paralegal assistants, and other employees of
11 such counsel who are assisting counsel in the prosecution or defense of this
12 action. Counsel shall be responsible for ensuring that his or her associates
13 and employees are informed of the terms of this Order and agree to abide by
14 them;

15 (b) The parties to this litigation, provided they are informed of the terms of
16 this Order and agree to abide by them;

17 (c) Outside consultants and experts retained by any party for the purpose of
18 assisting in the prosecution or defense of this action, but only after the
19 consultant or expert has read this Order and agrees in writing to be bound
20 by it, as set forth in Exhibit A. Upon Order of this Court, for good cause

1 shown, these agreements shall be available for inspection by counsel for the
2 party producing the confidential documents;

3 (d) Deposition witnesses during their depositions, or trial witnesses at trial,
4 when necessary for, or otherwise relevant or helpful to, such witness's
5 testimony, provided that confidential documents and the information
6 contained therein may be disclosed to non-party deposition or trial
7 witnesses only after the witness has read this Order and agrees in writing to
8 be bound by it, as set forth in Exhibit A. Upon Order of this Court, for good
9 cause shown, these agreements shall be available for inspection by counsel
10 for the party producing the confidential documents;

11 (e) With respect to a particular document, an individual who is shown on
12 the face of the document to have been an author, source, or recipient of the
13 document;

14 (f) Graphics, translation, or design services retained by counsel for purposes
15 of preparing demonstrative or other exhibits for deposition, trial, or other
16 court proceedings in the action; non-technical jury or trial consulting
17 services, not including mock jurors, who have signed the form attached
18 hereto as Exhibit A. Upon Order of this Court, for good cause shown, these
19 agreements shall be available for inspection by counsel for the party
20 producing the confidential documents;

1 (g) Independent stenographic reporters and videographers retained to record
2 and transcribe testimony in connection with this action, provided that
3 confidential documents and the information contained therein may be
4 disclosed to such individuals only after they have read this Order and agree
5 in writing to be bound by it, as set forth in Exhibit A. Upon Order of this
6 Court, for good cause shown, these agreements shall be available for
7 inspection by counsel for the party producing the confidential documents;
8 and

9 (h) The Court, its personnel and stenographic reporters (under seal or with
10 other suitable precautions determined by the Court).

11 7. Except with prior written consent of the party asserting confidential
12 treatment, documents designated ATTORNEYS' EYES ONLY and the
13 information contained therein may be disclosed only to the following persons:

14 (a) Counsel for the party(ies) to whom the disclosure has or is to be made,
15 and secretaries, paralegal assistants, and other employees of such counsel
16 who are assisting counsel in the prosecution or defense of this action.
17 Counsel shall be responsible for ensuring that his or her associates and
18 employees are informed of the terms of this Order and agree to abide by
19 them;

1 (b) Outside consultants and experts retained by any party for the purpose of
2 assisting in the prosecution or defense of this action, but only after the
3 consultant or expert has read this Order and agrees in writing to be bound
4 by it, as set forth in Exhibit A. Upon Order of this Court, for good cause
5 shown, these agreements shall be available for inspection by counsel for the
6 party producing the confidential documents;

7 (c) With respect to a particular document, an individual who is shown on
8 the face of the document to have been an author, source, or recipient of the
9 document;

10 (d) Graphics, translation, or design services retained by counsel for
11 purposes of preparing demonstrative or other exhibits for deposition, trial,
12 or other court proceedings in the action; non-technical jury or trial
13 consulting services, not including mock jurors, who have signed the form
14 attached hereto as Exhibit A. Upon Order of this Court, for good cause
15 shown, these agreements shall be available for inspection by counsel for the
16 party producing the confidential documents;

17 (e) Independent stenographic reporters and videographers retained to record
18 and transcribe testimony in connection with this action, provided that
19 confidential documents and the information contained therein may be
20 disclosed to such individuals only after they have read this Order and agree

1 in writing to be bound by it, as set forth in Exhibit A. Upon Order of this
2 Court, for good cause shown, these agreements shall be available for
3 inspection by counsel for the party producing the confidential documents;
4 and

5 (f) The Court, its personnel and stenographic reporters (under seal or with
6 other suitable precautions determined by the Court).

7 8. The recipient of any document designated CONFIDENTIAL or
8 ATTORNEYS' EYES ONLY that is provided under this Order shall
9 maintain such records in a secure and safe area and shall exercise a
10 professional standard of due and proper care with respect to storage,
11 custody, use and/or dissemination of such records, which standard shall not
12 be less than as is exercised by the recipient with respect to its own
13 proprietary information.

14 9. A party shall not be obligated to challenge the propriety of a
15 CONFIDENTIAL or ATTORNEYS' EYES ONLY designation at the time
16 made, and failure to do so shall not preclude a subsequent challenge thereto.
17 Failure to challenge the propriety of any CONFIDENTIAL or
18 ATTORNEYS' EYES ONLY designation shall not constitute an admission
19 as to the propriety of that designation. In the event that any party decides to
20 challenge a CONFIDENTIAL or ATTORNEYS' EYES ONLY designation

1 at any stage of these proceedings, such party shall provide to the producing
2 party written notice of its challenge to the designation, including its specific
3 reasons for challenging the designation. The parties shall first try to dispose
4 of such dispute in good faith on an informal basis. If the dispute cannot be
5 resolved, the designating party has twenty-one (21) days from the date of
6 the written challenge request appropriate relief from the Court pursuant to
7 applicable court rules and other authority to maintain the CONFIDENTIAL
8 or ATTORNEYS' EYES ONLY designation. The burden of proving that
9 records have been properly designated as CONFIDENTIAL or
10 ATTORNEYS' EYES ONLY shall be on the party making such
11 designation.

12 10. Each individual who receives any CONFIDENTIAL or ATTORNEYS'
13 EYES ONLY material hereby agrees to subject himself/herself to the
14 jurisdiction of the Court for the purpose of any proceedings relating to the
15 performance under, compliance with or violation of this Order.

16 11. Subject to the Rules of Evidence, CONFIDENTIAL or ATTORNEYS'
17 EYES ONLY information may be offered in evidence in filings with the
18 Court, at trial, or at any court hearing. However, the parties will not file
19 such information with the Court or otherwise use such information in open
20 Court unless it is reasonably necessary to do so. Any party seeking to file or

1 use documents designated as CONFIDENTIAL or ATTORNEYS' EYES
2 ONLY may only file such documents contemporaneously with a motion to
3 seal such documents pursuant to applicable court rules and other authority.
4 Any party may move the Court for an order that such evidence be received
5 in camera or under other conditions to restrict disclosure. A party intending
6 to use or file a document that arguably contains CONFIDENTIAL or
7 ATTORNEYS' EYES ONLY information shall provide seven (7) business
8 days' notice to the other party. This seven (7) business days' notice
9 requirement does not apply to any papers filed in support of or opposition to
10 a dispositive motion.

11 12. The use of documents designated CONFIDENTIAL or ATTORNEYS'
12 EYES ONLY, and information derived therefrom, during the course of the
13 trial of this action shall be governed by further stipulation of the parties or
14 further Order of this Court. Except as to the use at trial of CONFIDENTIAL
15 or ATTORNEYS' EYES ONLY documents and information derived
16 therefrom, this Order shall remain effective until such time as it is
17 superseded by stipulation of the parties or Order of this Court.

18 13. At the conclusion of the litigation of this action, or upon settlement or
19 dismissal, documents designated as CONFIDENTIAL or ATTORNEYS'
20 EYES ONLY, and all copies of such documents (other than exhibits of

1 record), shall, at the direction of the producing party, within sixty (60) days
2 be (i) returned to the producing party and retained thereby for a period of
3 three years from the date the documents were returned, or (ii) destroyed,
4 with the party destroying the documents providing a certificate of
5 destruction to the producing party.

6 14. In the event that any CONFIDENTIAL or ATTORNEYS' EYES
7 ONLY document is used in any hearings or court proceedings, it shall not
8 lose its CONFIDENTIAL or ATTORNEYS' EYES ONLY status outside of
9 litigation through such use.

10 15. Nothing in this Order shall prevent any party to this action from moving
11 the Court to remove a CONFIDENTIAL or ATTORNEYS' EYES ONLY
12 designation from a particular document, from seeking modification of this
13 Order or other or further protection or relief, or from objecting to discovery
14 which it believes to be otherwise improper.

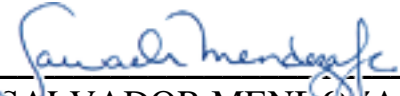
15
16 Accordingly, **IT IS HEREBY ORDERED:**

17 The Parties' Stipulated Protective Order, **ECF No. 13**, is **GRANTED**.

18 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order
19
20

1
2 and provide copies to all counsel.

3 **DATED** this 25TH day of April 2016.

4 
5 SALVADOR MENDOZA, JR.
6 United States District Judge
7
8
9
10
11
12
13
14
15
16
17
18
19
20